IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 26210 of 2005

Between:

Vennamala Rajitha W/o.V.Chandrasekhar Reddy
R/o.H.No.27 I/885/7, Balajinagar, Nellore Nellore district

..... PETITIONER

AND

Municipal Corporation of Nellore, represented by its Commissioner, Nellore District

.....RESPONDENT

The Court made the following:

ORDER:

Questioning the action of the respondent in issuing the impugned notice vide UC.No.8/04/TPS 1, dated 15.09.2004 to the vendor of the petitioner without issuing any notice to the petitioner and without following due process of law, proposing to demolish the building, the present writ petition has been filed.

The grievance of the petitioner is that she is the absolute owner of the building bearing Door No.271/885/7, situated at Balajinagar, Nellore District, having purchased the same from one V. Venkata Ramana Reddy and Chandra Sekhar Reddy under registered Document No.3215 and since then she has been in

continuous possession and enjoyment of the same by paying the property tax. On 5.12.2005, the officials of the respondent visited the building of the petitioner and tried to demolish the building of the petitioner under the guise of the provisional order dated 02.09.2004 and the final order dated 15.09.2004, as they already issued the said two notices to her vendor. Challenging the said action, the present writ petition has been filed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent.

The learned counsel for the petitioner contended that without issuing any notice and without following due process of law, the respondent is proposing to demolish the building of the petitioner. More over, the provisional notice as well as the final order were issued to the vendor of the petitioner, but not to the petitioner.

Having heard the learned counsel for the petitioner and after perusal of the entire material on record, I am of the view that the provisional notice as well as the final order were issued only to the vendor of the petitioner, but not to the petitioner. If the building was constructed contrary to the sanctioned plan as indicated in the provisional notice dated 02.09.2004, it is for the respondent to inform the petitioner about the said violations by issuing a prior notice. Admittedly, no notice was issued to the petitioner, but the said notices were issued to the vendor of the petitioner.

Having regard to the facts and circumstances of the case, I deem it appropriate to direct the respondent to issue provisional notice to the petitioner indicating the deviations and the constructions made contrary to the sanctioned plan. However, it is made clear that before demolishing the said building, the respondent shall give a reasonable opportunity to the petitioner for making an explanation for the said violations and after submitting the explanation by the petitioner, the respondent shall consider the same and pass appropriate orders

in accordance with law. Till then, the building of the petitioner shall not be demolished.

With the above observation, the writ petition is disposed of. No costs.

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(V. ESWARAIAH, J)

Date: 07.12.2005

Ksn